

SHIPPED: 10-28-60, from Kansas City, Mo., by M & M Rubber Co.

LABEL IN PART: (Pkg.) "Viking Prophylactics * * * Contents $\frac{1}{4}$ Dozen Sold For the Prevention of Disease Only Dist. by M & M Rubber Co., Kansas City, Mo."

RESULTS OF INVESTIGATION: Examination showed that 3 out of 144 prophylactics examined were defective in that they contained holes.

LIBELED: 12-9-60, Dist. Nev.; amended 12-29-60.

CHARGE: 501(c)—when shipped, the quality of the article fell below that which it purported to possess; and 502(a)—the label statement "For the Prevention of Disease" was false and misleading as applied to an article containing holes.

DISPOSITION: 1-24-61. Default—destruction.

DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS*

6568. Tri-Wonda Treatment (Tri-Wonda Nos. 1, 2, and 3). (F.D.C. No. 34908. S. Nos. 47-121/3 L.)

QUANTITY: 11 100-lb. drums of "Tri-Wonda No. 2" (bulk); 1,526 4-oz. cans of "Tri-Wonda No. 2"; 2,077 2-oz. btls. of "Tri-Wonda No. 1"; and 5,229 2-oz. btls. of "Tri-Wonda No. 3," at Jackson, Miss., in possession of Wonda Products Co.

SHIPPED: The 100-lb. drums of "Tri-Wonda No. 2," between 10-3-52 and 1-13-53, from New York, N.Y.; the bottles of "Tri-Wonda No. 1," on 2-9-53, from Atlanta, Ga.; and the bottles of "Tri-Wonda No. 3," on 2-9-53 and 2-20-53, from Atlanta, Ga.

LABEL IN PART: (Drum) "Special Powdered Tri-Wonda Formula No. 2 * * * Cream of Tartar T V Senna Precipitated Sulphur, XXXX Sugar Phenolphthalein Corn Starch Caution For Manufacturing Processing or Repackaging"; (can) "Contents 4 Ozs. Tri-Wonda No. 2 Laxative Powder Active Ingredients: Cream of Tartar, Senna, Sulphur and Phenolphthalein. * * * Wonda Products Co. Sole Distributors 2805 Arbor Hills Drive, Jackson, Miss."; (btl.) "2 fluid ounces Tri-Wonda No. 1 Suggested for Muscular Aches, Pains, Soreness, Stiffness, and Swellings, Active Ingredients: Nitric Acid and Hydrochloric Acid. Also traces of Salicylic, Tartaric, Acetic and Ascorbic Acids. No Alcohol No Opiate * * * Wonda Products Co. 2805 Arbor Hills Drive, Jackson, Miss."; and (btl.) "2 fluid ounces Tri-Wonda No. 3 Helpful in case of Simple Neuralgia Active Ingredients: Fluid Extract of Jamaica Dogwood, Syrup of Wild Cherry, and Thiamine Hydrochloride 44% Alcohol Not an Opiate * * * Mfg. by Wonda Products Co. 2805 Arbor Hills Drive, Jackson, Miss."

ACCOMPANYING LABELING: Leaflet entitled "Special Bulletin" and printed letters headed "Dear Friend."

RESULTS OF INVESTIGATION: One bottle of "Tri-Wonda No. 1," 2 cans of "Tri-Wonda No. 2," and 3 bottles of "Tri-Wonda No. 3" were assembled by Wonda Products Co. into one carton for shipment to customers. This assortment was called one "*Tri-Wonda Treatment*." The cans of "Tri-Wonda No. 2" had been packed by Wonda Products Co. from the contents of 100-lb. drums.

*See also Nos. 6541, 6546, 6547, 6551, 6552, 6554-6559, 6563-6567.

LIBELED : 3-23-53, S. Dist. Miss.

CHARGE : 502(a)—while held for sale, the accompanying labeling of the article designated as the "*Tri-Wonda Treatment*," consisting of one bottle of "Tri-Wonda No. 1," two cans of "Tri-Wonda No. 2," and three bottles of "Tri-Wonda No. 3," and of the bulk material in drums labeled in part "Tri-Wonda Formula No. 2," contained false and misleading representations that the article was an adequate and effective treatment for bursitis, arthritis and rheumatism.

DISPOSITION : On 3-27-53, Mrs. Lela S. Wier, t/a Wonda Products Co., filed an answer to the libel, claiming the articles and denying that they were misbranded. On 2-4-54, the claimant filed an amended answer and counterclaim. The amended answer denied that the articles were misbranded and claimed that the articles had the capacity to give relief from certain symptoms and distress accompanying arthritis and rheumatism. The counterclaim sought an adjudication that the "*Tri-Wonda Treatment*" was effective; that the proceeding was instituted without reasonable cause; that the libel be dismissed; that the property seized be restored; and that claimant have a judgment for costs. On 2-11-54, the claimant filed a motion for the discovery of Government documents containing scientific or technical information relating to the products seized and the issues involved.

On 3-3-54, the Government filed a complaint against Mrs. Lela S. Wier, t/a Wonda Products Co., seeking to enjoin her from introducing into interstate commerce the article of drug "Tri-Wonda" upon the grounds that it was misbranded (see notice of judgment No. 6551 in this supplement). On 3-5-54, the Government filed a motion to take a sample of the seized articles; motion sustained 3-8-54. On 4-9-54, the first set of Government interrogatories was filed, and on 4-16-54, the claimant moved for additional time within which to file objections or answers to the interrogatories; claimant's motion granted 4-19-54. On 5-10-54, the claimant filed some answers and objections to the Government interrogatories; 26 of 30 questions were objected to, 3 were answered directly, and a general, partial, nonspecific answer was made to some of the interrogatories. On 5-24-54, the Government filed a motion for an order to compel further and more complete answers from the claimant. On 7-23-54, the first set of claimant interrogatories was filed. On 7-27-54, the Government filed a subpoena served on Lela Wier which directed her to produce documents. On 7-28-54, the Government filed objections to answering any and all of the claimant interrogatories.

On 8-5-54, the court ordered :

1. The consolidation of the libel and injunction actions for trial;
2. The striking of the claimant's counter claim;
3. The production of the Government documents demanded by the claimant for inspection and copying by the claimant;
4. The answering by the claimant of Government interrogatories Nos. 1 to 30, inclusive, except No. 6 (the formula required by interrogatory No. 5 was ordered answered in secret and kept as a secret by the Government);
5. The answering by the Government of the claimant's interrogatories Nos. 1 to 16, inclusive, except as to Nos. 4, 5, 8, 9 and 10; and
6. The filing of complete answers to the required interrogatories by both the United States and Mrs. Wier on or before 8-17-54. The court also ordered that the claimant, Mrs. Wier, was not required to comply with part of the subpoena duces tecum, namely, that relating to the production of letters from dissatisfied customers.

Thereafter, both sides filed further written interrogatories and the Gov-

ernment filed two series of requests for admissions. Trial on the issues of both the libel and the injunction began on 9-26-55. There were recesses, and the testimony was completed on 6-21-56, after nearly 7 weeks of actual trial. The case was taken under advisement by the court. On 5-29-57, the court handed down its findings of fact and conclusions of law to the effect that the articles were misbranded in that their accompanying labeling contained the false and misleading statement: "Tri-Wonda No. 1 is a powerful medicine—must be in order to relieve one's system of any form of rheumatism." On the same day the court signed a decree providing for the condemnation and destruction of the articles.

6569. Various vitamin products. (F.D.C. No. 44889. S. Nos. 32-392 R, 32-398/9 R, 35-363/4 R, 35-368/71 R, 35-373/4 R, 35-376 R, 35-378 R.)

QUANTITY: 64 100-capsule btls. of *Formula No. 385*; 20 100-capsule btls. of *Formula No. 505*; 24 100-capsule btls. of *Formula No. 616*; 65 100-tablet btls. of *Formula No. 737*; 50 100-tablet btls. of *Formula No. 739*; 42 100-tablet btls. of *Formula No. 748*; 93 100-tablet btls. of *Formula No. 749*; 18 100-capsule btls. of *Formula No. 751*; 10 100-capsule btls. of *Formula No. 752*; 23 100-capsule btls. of *Formula No. 755*; 8 4-oz. btls. of *Formula No. 760*; 5 100-tablet btls. of *Formula No. 785*; and 1 100-capsule btl. of *Formula No. 787*, at New York, N.Y., in possession of George Nemiroff & Co., Inc.

SHIPPED: On various dates during 1959 and 1960, from Baltimore, Md., and Roselle, N.J.

LABEL IN PART: "Formula No. 385 * * * Nemco-Vite Multi-Vitamins"; "Formula No. 505 * * * Nem-B-Globin with Vitamin B-12"; "Formula No. 616 * * * Multigels * * * High Potency Multiple Vitamin Therapeutic Formula"; "Formula No. 737 * * * Thiamin Chloride (Vitamin B-1) 100 mg."; "Formula No. 739 * * * Riboflavin (Vitamin B-2) 10 mg."; "Formula No. 748 * * * Niacin 100 mg."; "Formula No. 749 * * * Niacinamide 50 mg."; "Formula No. 751 * * * Vitamin A (Natural) 25,000 U.S.P. Units"; "Formula No. 752 * * * Vitamin A (Natural) 50,000 U.S.P. Units"; "Formula No. 755 * * * Wheat Germ Oil 3 minims"; "Formula No. 760 * * * Nemco-Bild An Appetite Stimulant with Lysine"; "Formula No. 785 * * * Nemco-Hist Antihistaminic Analgesic-Antipyretic with Vitamin C and Citrus Bioflavonoids"; and "Formula No. 787 * * * Therapeutic M Therapeutic Multi-Vitamins and Minerals with 10 mcg. Vitamin B-12."

ACCOMPANYING LABELING: Booklet entitled "Save On All Drugs & Vitamins at Nemiroff"; leaflets entitled "Vitascorbic No. 26," "Nemco-Vite No. 30," and "Lest You Forget."

RESULTS OF INVESTIGATION: The articles were packed in retail-size containers by the manufacturers and labeled with labels supplied by the dealer.

LIBELED: 9-19-60, S. Dist. N.Y.

CHARGE: 502(a)—while held for sale, the labeling of the articles contained the following false and misleading representations:

(a) That all of the articles, by supplying supplemental quantities of vitamins and minerals to the diet would guard the diet; promote well being; preserve the health of the tissues; provide added endurance, vigor, and growth; assure normal functioning of the digestive tract, nervous system, and other organs and systems of the body;

(b) That the articles listed in the labeling as providing supplemental amounts of vitamin A to the diet would prevent night blindness; help main-